

REMARKS/ARGUMENTS

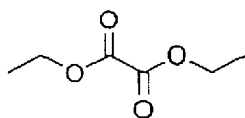
The amendments to Claims 1 and 9 are supported by these claims as originally filed and by specification page 5, lines 20-22. The amendment to Claim 2, and new Claims 21-23, are supported at specification page 5, lines 22-38. No new matter has been entered.

The claims have been clarified to point out the several components of the nonaqueous electrolytic solution. Claim 14 has been cancelled. Accordingly, the rejection under 35 U.S.C. 112 should be reconsidered and withdrawn.

By the above amendment the independent claims herein have been limited to require the presence of an asymmetric dialkyl oxalate having two different alkyl groups. As noted at specification page 5, these asymmetric dialkyl oxalates are preferred herein from the standpoint of the formation of a suitable coating on the negative electrode. As will be shown below, asymmetric dialkyl oxalates are neither disclosed or suggested by Shizuka.

The anticipation rejection of Claims 1-2 and 4-20 over Shizuka, and the rejection of claims 8, 15-16 and 20 as anticipated by or obvious over Shizuka, is traversed.

Paragraph [0045] of Shizuka, cited in the Official Action at page 3, discloses malonates and carbonates, neither of which are oxalates. However, paragraph [0046] of Shizuka mentions the use of diethyl oxalate instead of malonate. Diethyl oxalate, however, is a symmetrical dialkyl oxalate having two identical alkyl (here ethyl) groups:



Diethyl oxalate

On the contrary, in the pending claims an asymmetric dialkyl oxalate is required. For example, in Examples 22-32 herein (see specification page 30ff) asymmetric dialkyl oxalates

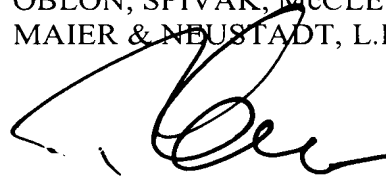
like methyl ethyl oxalate, methyl hexyl oxalate, etc are used and show, e.g., excellent retention of discharge capacity and wetability in use. As such, the present invention shows enhanced long-term cycling, electrical capacity and charged-state storage properties as set forth at specification page 1, lines 1-6. Shizuka, on the other hand, is concerned with overcharge safety ([0001]) and nowhere discloses or suggests the use of an asymmetric dialkyl oxalate.

Accordingly, and in view of the above amendments and remarks, Applicants submit that Shizuka fails to anticipate the pending claims and, further, fails to present a *prima facie* case of obviousness against the pending claims. As such, the rejections over this reference should be reconsidered and withdrawn, and this case passed to Issue.

A Notice of Allowance is earnestly requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)